

**MINUTES OF THE
JOINT PUBLIC EDUCATION APPROPRIATIONS SUBCOMMITTEE MEETING
THURSDAY, FEBRUARY 12, 2004
ROOM 129, STATE CAPITOL BUILDING**

Members Present: Sen. Howard Stephenson, Co-Chair
 Rep. Gordon Snow, Co-Chair
 Sen. James Evans
 Sen. Karen Hale
 Sen. Lyle Hillyard
 Sen. Bill Wright
 Rep. Doug Agard
 Rep. Duane Bourdeaux
 Rep. Judy Ann Buffmire
 Rep. LaVar Christensen
 Rep. David N. Cox
 Rep. Marda Dillree
 Rep. Glenn Donnelson
 Rep. John Dougall
 Rep. James Ferrin
 Rep. Karen Morgan

Members Excused: N/A

Staff Present: R. Michael Kjar, Sr. Fiscal Analyst
 Ben Leishman, Legislative Analyst
 Katrina Yarrington, Secretary

Public Speakers Present: Steve Laing, State Superintendent, USOE
 Patrick Ogden, Associate Superintendent, USOE

A list of visitors and a copy of handouts are filed with the committee minutes.

Committee Co-Chair Snow called the meeting to order at 2:21 p.m.

1. POPS - Fine Arts and Sciences - M. Gay Taylor, Legislative Counsel, assisted by Dee Larsen, from the Office of Legislative Research and General Counsel Office, explained legal issues regarding the distribution of funds under the Fine Arts and Sciences line item. The Legislature may no longer list individual organizations as recipients of RFP or Line Item funds. Legal counsel recommended the following intent language to help solve the problem for FY 2005.

"It is the intent of the Legislature that the entities receiving funds under this line item and the RFP receive at least the same allocation as the previous years allocation

from this fund providing that: 1) They continue to provide the same level of service or greater; and 2) They meet all of the necessary requirements applicable to other groups participating in the programs."

MOTION: Rep. Dillree moved to accept the intent language proposed by Gay Taylor, Legislative Counsel.

The motion passed unanimously with Sen. Hillyard, Sen. Wright, and Rep. Ferrin absent for the vote.

Co-Chair Snow numbered the handouts as motions #1 - 9, the first motion being the intent language from Gay Taylor.

MOTION: Sen. Stephenson moved motion #2 from Rep. Greg Curtis, which reads as follows with insertions which are underlined:

"It is the intent of the legislature that USOE use private entities that bring matching funds in a ratio of at least 2 to 1 that have:

- 1. a proven, tested and effective existing programs;*
- 2. whose operation and administrative cost are already provided/paid for;*
- 3. has a professional paid staff; and,*
- 4. has flexibility on hours of operation.*

It is further the intent of the legislature that the USOE report to the Public Education Appropriations Subcommittee the extent to which the USOE has contracted with private entities.

MOTION: Rep. Christensen moved to amend the motion as follows:

Delete "use" and insert: "*study and consider all proposals from private entities*"

The motion to amend failed with Rep. Ferrin absent for the vote.

MOTION: Rep. Dillree called the question on the original motion.

The motion to call the question passed unanimously with Rep. Ferrin absent for the vote.

The original motion failed with Rep. Ferrin absent for the vote.

MOTION: Rep. Dillree moved handouts #3 & 4 as motion #3. The motions read as follows:

Public Education Agencies - Utah Schools for the Deaf and Blind

MOTION: I move to adopt the Analyst's total base budget recommendations for the Utah Schools for the Deaf and Blind of \$22,151,600, as detailed by program in TAB 15, pages 9 and 11 of the FY 2005 Budget Analysis.

Further, I move the following Legislative intent language for the Utah Schools for the Deaf and Blind.

It is the intent of the Legislature that the State Board of Education, in conjunction with the finance director and USDB Superintendent, directly oversee the calculation of the teacher salary adjustments detailed in UCA 53A-25-111. Further, this calculation should be presented to the State Board of Education for formal approval in time to be included in the FY 2006 budget request for the agency. A report shall be submitted for review to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst detailing how the annual salary adjustment was derived.

It is the intent of the Legislature that beginning July 1, 2004 that the fiscal management of the Utah Schools for the Deaf and Blind be placed in the Utah State Office of Education. It is further the intent of the Legislature that the State Board of Education provide oversight of USDB operations and finances.

It is the intent of the Legislature that the Utah Schools for the Deaf and Blind, in conjunction with the State Board of Education, report to the interim Public Education Appropriations Subcommittee detailing the implementation of the Legislative audit recommendations. This report shall be delivered before November 31, 2004.

Public Education Agencies - USDB Institutional Council

MOTION: I move to adopt the Analyst's total base budget recommendations for the Utah Schools for the Deaf and Blind - Institutional Council of \$286,900, as detailed by program in TAB 15, Institutional Council Section, page 5 of the FY 2005 Budget Analysis.

I move the following Intent Language for the USDB Institutional Council line item:

It is the intent of the Legislature that the State Board of Education, in

consultation with the USDB Institutional Council, define the appropriate use of the USDB Trust Land Funds. The definition should include any restrictions on the use of Trust Land Funds as well as a specific plan outlining the use of the closing non-lapsing balances held by the line item, and report back to the Public Education Appropriations Subcommittee before the 2005 General Session.

MOTION - Utah Schools for the Deaf and Blind:

I move to reduce the FY 2004 Beginning Non-lapsing balance of USDB by \$350,000 and appropriate these funds to the State Board of Education to be distributed to the Jean Massieu Charter School with the following intent language:

It is the intent of the Legislature that the revenue appropriated to the State Board of Education for distribution to the Jean Massieu Charter School be non-lapsing.

It is the intent of the Legislature that substantial effort be made by the State Superintendent and the State School Board to combine the services of USDB and the Jean Massieu Charter School for the Deaf. This shall include instruction in American Sign Language as well as bi-lingual and bi-cultural education which will receive administrative support. Representatives from Jean Massieu shall be integrated in a meaningful way into the USDB governing body.

The state Superintendent shall report to the Education Interim Committee in September regarding the progress of this intent. If necessary the Interim Committee may make recommendations regarding continued funding of Jean Massieu until integration is complete.

There was discussion among committee members about wording in the motions on the table.

MOTION: Sen. Stephenson moved to amend the middle paragraph of the last intent language in the motion as follows and to pass motion #3 & 4:

Third line (fourth line above) replace the word *shall* with the word *may*.

The motion passed unanimously.

MOTION: Rep. Ferrin moved handout #7 as motion #4, the handout reads as follows:

53A-17a-105. Action required for underestimated or overestimated weighted pupil units - - Action required for underestimating or overestimating local contributions.

(1) If the number of weighted pupil units in a program is underestimated in Section **53A-17a-104**, the amount per pupil in that program paid under this chapter must be reduced so that the amount paid does not exceed the estimated amount by program.

(2) If the number of weighted pupil units in a program is overestimated in Section **53A-17a-104**, the state superintendent of public instruction shall either increase the amount paid in that program per weighted pupil unit or transfer the unused amount in that program to another program included in the minimum school program.

(3) (a) If surplus funds are transferred to another program, the state superintendent, if he determines certain districts have greater need for additional funds, may designate the districts as well as the programs to which the transferred funds will be allocated.

(b) Any amounts transferred under Subsection (a) may be spent in addition to the amounts listed in Section **53A-17a-104**.

(4) The limitation on the proceeds from local tax rates for operations and maintenance programs under this chapter is subject to modification by local schools boards under Sections **53A-17a-133** and **53A-17a-134** and to special tax rates authorized by this chapter, and shall be adjusted accordingly.

(5) If local contributions are overestimated, the guarantee per weighted pupil unit is reduced for all programs so the total state contribution for operation and maintenance programs does not exceed the amount authorized in Subsection **53A-17a-104**(1).

(6) (a) If local contributions from the basic tax rate for operation and maintenance programs or the voted and board leeway programs are underestimated, the excess is applied first to support the value of the weighted pupil unit as set by the Legislature for total weighted pupil units generated by the districts and those costs of Social Security and retirement, transportation, and board and voted leeway that occur as a result of the additional generated weighted pupil units, following internal adjustments by the state superintendent as provided in this section.

(b) The state contribution is decreased so the total school program cost for operation and maintenance programs does not exceed the total estimated contributions to school districts for all programs under Subsection **53A-17a-104**(2) plus the amount of local revenue necessary to support the value of the weighted pupil unit for weighted pupil units generated and those costs of Social Security and retirement, transportation, and board and voted leeway that occur as a result of the additional generated weighted pupil units.

(7) Any unused funds in the Minimum School Program resulting from either subsection (2) or (6) of this section along with other discrepancies between estimated amounts as budgeted and actual amounts as disbursed may be used by the state

superintendent of public instruction, with the approval of the Utah State Board of Education, for purposes, in priority as follows:

(a) programs within Minimum School Program other than those specified in subsection (6) (a) where WPU's or actual enrollment may have been underestimated;

(b) the Early Graduation Incentives Program in 53A-15-102;

(c) out of state student enrollment costs for districts with contracts with neighboring states to provide educational services to students in remote areas of Utah;

(d) reimbursements to districts for the portion of tax rebates corresponding to the basic tax rate and due taxpayers who have successfully challenged property assessments;

(e) the Loss in Student Enrollment Program in 53A-17a-139;

(f) up to \$400,000 dollars for special studies or contracted audits as determined by the Utah State Board of Education; and

(g) any fund deficiency in the preceding year in the Public Education Capital Outlay Act in 53A-21.

(8) As an exception to Section **63-38-8**, the state fiscal officer may not close out appropriations from the Uniform School Fund at the end of a fiscal year.

There was discussion among committee members about information detailed in the handout. Steve Laing, State Superintendent, and Patrick Ogden, Associate Superintendent, answered questions from committee members, and provided clarification.

MOTION: Rep. Ferrin moved to pass handout #7 as motion #4.

MOTION: Rep. Bourdeaux moved to add handout #5 as an amendment to original motion of handout #7, and to pass handout #7 as amended. Handout #5 reads as follows:

(h) programs within Minimum School Program that are not WPU driven that are high personal services cost programs ie: Interventions for student success; Quality Teaching Block Grant; Local Discretionary Block Grant; At Risk programs; Adult Education; and Accelerated Learning programs. Funds for these programs are to be provided on an equal basis to the percentage increase in the value of the Weighted Pupil Unit. Ongoing funds to continue the increases shall be considered in the next General Session of the Legislature.

SUBSTITUTE MOTION: Rep. Dougall moved to delete letters 'e' and 'f' in handout #7 and renumber letter 'g' as 'e'.

The motion failed with Rep. Cox absent for the vote.

The original motion failed with Rep. Cox absent for the vote.

Sen. Hillyard recommended that the two co-chairs take the information detailed in handout #7 and meet with the State Board and Office of Education and come back with recommendations.

Co-Chair Snow welcomed his recommendation.

MOTION: Sen. Hale moved handout #6 which reads as follows:

Fine Arts and Sciences

I move to adopt the Analyst total base budget recommendations for the Fine Arts and Sciences program of \$2,979,000, to be distributed as follows: \$2,899,000 to the Line Item Program, \$30,000 to the RFP Program, and \$50,000 to the Subsidy Program.

The State Board of Education shall make rules governing the eligibility, funding distribution and reporting requirements of the Fine Arts and Science programs listed above.

I further move to add an increase of \$320,000 to the Public Education Appropriations Subcommittee Priority List to be submitted to the Executive Appropriations Committee for funding consideration. This increase shall be distributed as follows, \$210,000 for the Line Item Program, and \$110,000 to the RFP Program.

MOTION: Rep. Ferrin moved to divide Sen. Hale's motion with 1st motion to include paragraphs 1 and 2, and second **MOTION** to include paragraph 3.

Motion #1 passed unanimously with Sen. Hillyard and Rep. Cox absent for the vote.

Motion #2 failed with Sen. Hillyard and Rep. Cox absent for the vote.

MOTION: Rep. Dougall moved to reconsider action on motion #1 and replace it with the following language:

"It is the intent of the Legislature that the State Board of Education allocate funds under this line item to entities based on the individual entities' demonstrated excellence in their discipline and their impact on the overall school science or art programs or curricula.

The motion to reconsider failed with Sen. Hillyard and Rep. Cox absent for the vote.

MOTION: Sen. Stephenson moved handout # 8 with reads as follows:

The Legislature recognizes the importance of correlating state instructional materials with the State of Utah's core curriculum standards and believes that this correlation can best be accomplished through a qualified, independent, third party review body.

During the 2003 interim period, the Interim Education Committee engaged in a RFP process to select competency based education systems for future legislative funding pursuant to SB 154 (2003). During this RFP process, the interim education committee identified and selected a qualified, independent, third party review body to assist and support State education systems by correlating State instructional materials to the Utah Core Curriculum Standards.

This same selectee has previously provided services through a contract with the USOE.

MOTION: It is the intent of the Legislature that the USOE continue with the state instructional materials correlation process and directs the USOE to contract with the review body, previously selected through the Interim Education Committee's RFP process, to conduct all reviews of instructional materials to provide a complete correlation to the State core curriculum prior to the time the USOE, districts, schools, and teachers purchase instructional materials.

The third party review body shall report the results of the correlation through an online system to make its correlation findings available for review and application by all teachers in the state.

The cost of the review process shall be born by the publishers of instructional materials.

MOTION: I move to appropriate \$71,000 in ongoing Uniform School Funds to the Utah State Office of Education for online coordination of instructional materials.

There was discussion amongst committee members and Edson Barton, CEO, ProCert Labs, Paul Hoffmann, Vice President, ProCert Labs, and Rulan Gill, Employer's Education Coalition, about Sen. Stephenson's motion.

MOTION: Sen. Stephenson moved to amend his motion as follows:

In the first paragraph of the first motion on the page the third line (second line above) down removed the word "*direct*" and replace it with the word "*recommends*", the

fourth line down removed the word "all".

And to amend the last motion on the page as follows: "It is the intent of the Legislature that the USOE use up to \$71,000 of remaining funds appropriated in SB 154 for online coordination of instructional materials."

MOTION: Rep. Dougall moved to amend and pass handout #8 as follows:

In the first paragraph of the first motion on the page as follows: remove the word "to", and the word "the" and replace it with "a", and remove the phrase "previously selected through" and replace it with "that has satisfied".

The motion passed with Rep. Christensen and Rep. Bourdeaux voting in opposition.

MOTION: Rep. Dillree moved handout #9 which reads as follows:

53A-2-206. Exchange and interstate compact students - - Inclusion in attendance count - - Annual report - - Requirements for exchange student agencies.

(1) A school district may include the following students in the district's membership and attendance [of students] count for the purpose of apportionment of state monies [if]:

(a) ~~[(i) the student is]~~ a foreign exchange student sponsored by an agency approved by the State Board of Education~~[-and~~

~~(ii) the agency sponsoring the foreign exchange student is also sponsoring a resident student of the district who is enrolled in a school in a foreign country]~~ , subject to the limitation specified in Subsection (2):

(b) ~~[the]~~ a student ~~[is]~~ enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(c) ~~[the]~~ a student ~~[is]~~ receiving services under the Compact on Placement of Children.

(2) The number of foreign exchange students that may be counted for the purpose of apportioning state monies shall be lesser of:

(a) the number of foreign exchange students:

(i) enrolled in the school district: and

(ii) sponsored by an exchange student agency approved by the State Board of Education; or

(b) the number of resident students of the district that are:
(i) enrolled in a school in a foreign country; and
(ii) sponsored by an exchange student agency approved by the State Board of Education..

(3) A school district may:

(a) enroll foreign exchange students that do not qualify for state monies; and

(b) pay for the costs of those students with other funds available to the school district.

~~[(2)]~~ (4) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.

~~[(3)]~~ (5) (a) The board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency had complied with all applicable rules of the board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment.

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and other who could be called at any time of a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

~~[(4)]~~ (6) (a) the board shall provide each approved exchange student

agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

MOTION: Rep. Dillree moved to amend and pass handout #9 as follows:

Remove the phrase "*the State Board of Education*" and insert "*local school board*".

The motion passed unanimously with Sen. Hillyard, Sen. Wright, and Rep. Cox absent for the vote.

MOTION: Rep. Snow moved that a supplemental for FY 2004 be paid out of Minimum School Program Carry Forward (non-lapsing balances) to the Electronic High School of \$175,000 and the Charter School for \$716,000. Also that the committee recommend to Executive Appropriations that \$5 million dollars for classroom supplies for the coming year be funded out of that non-lapsing balance.

The motion passed unanimously with Sen. Hillyard, Sen. Wright and Rep. Cox absent for the vote.

MOTION: Sen. Evans moved to reconsider action on handout #6 the 3rd paragraph.

The motion passed with Rep. Snow, Rep. Aagard, Rep. Dillree, Rep. Donnelson, and Rep. Dougall voting in opposition, and Sen. Stephenson, Sen. Hillyard, and Rep. Cox absent for the vote.

MOTION: Rep. Ferrin moved to amend handout #6 the 3rd paragraph as follows:

Remove the phrase "*to add an increase*" and insert "*that the*"; and replace the word "*to*" with "*on*"; remove the punctuation after "*consideration*" remove "*this increase shall*"; and remove "*distributed*" and insert "*allocated*".

So it now reads as follows:

I further move that the \$320,000 on the Public Education Appropriations Subcommittee Priority List to be submitted to the Executive Appropriations Committee for funding consideration be allocated as follows, \$210,000 for the Line Item Program, and \$110,000 to the RFP Program.

The motion passed with Rep. Dougall voting in opposition and Sen. Hillyard and Rep. Cox absent for the vote.

MOTION: Rep. Snow moved the following motion from the handout from the previous meeting on February 11th, 2004. It reads as follows:

I move that the statutory increases for the Board and Voted Leeway programs be increased at half of the rate of increase scheduled currently by statute.

The motion passed unanimously with Sen. Hillyard and Rep. Cox absent for the vote.

MOTION: Rep. Dougall moved the following motion also from the handout from 2/11/04. It reads as follows:

MOTION: I move the adoption of \$447,538,968 in expenditures for the Minimum School Program - Related to Basic Programs as detailed in TAB 7, page 3.

Related to Basic Programs:

| | |
|---|--------------|
| Interventions for Student Success Block Grant | \$15,308,708 |
| Quality Teaching Block Grant | 57,426,623 |
| Local Discretionary Block Grant Program | 21,824,448 |
| Social Security and Retirement | 233,345,816 |
| Pupil Transportation | 56,245,567 |
| Guarantee Transportation Levy | 500,000 |
| Math/Science-Beginning Teacher Recruitment | 600,000 |

Special Populations:

| | |
|-------------------------------|------------|
| Highly Impacted Schools | 5,123,207 |
| At Risk Programs | 24,778,484 |
| Adult Education | 5,826,865 |
| Accelerated Learning Programs | 8,695,104 |

Other:

| | |
|--|-----------|
| Discretionary Program Funding | 4,917,419 |
| Electronic High School | 400,000 |
| School Land Trust Program | 8,900,000 |
| Charter School - Local Replacement Funding | 3,271,727 |
| U of U Reading Clinic | 375,000 |

There was discussion amongst committee members, Steve Laing, Superintendent, Phil

Jeffrey, Governor's Office, and Dave Steele, USOE.

SUBSTITUTE MOTION: Sen. Wright moved to accept the motion except to remove the Math/Science -Beginning Teacher Recruitment program and U of U Reading Clinic from the original motion.

Subcommittee members requested that the motion be divided. Rep. Snow divided the motion to be voted as follows:

Math/Science - Beginning Teacher Recruitment

Committee members voting to remove the Math and Science funding:

9 members in the House & 3 members in the Senate

Committee members voting to maintain the Math and Science funding:

2 members in the Senate & 2 members in the House

The motion passed to remove the Math/Science Beginning Teacher Recruitment funding in both the House and the Senate.

U of U Reading Clinic

Committee members voting to maintain funding for the U of U Reading Clinic:

7 members in the House & 2 members in the Senate

Committee members voting to remove the funding for the U of U Reading Clinic:

3 members in the House & 3 members in the Senate

The motion to remove the U of U Reading Clinic failed and the funding item remained in the original motion.

The motion, with Math and Science removed and U of U Reading Clinic remaining, passed unanimously.

2. Final Base Budget Action and Prioritization -

MOTION: Rep. Ferrin moved that the subcommittee report to Executive Appropriations that its highest priority is Enrollment Growth in the school districts and charter schools - including the Local Replacement Funding. .

SUBSTITUTE MOTION: Rep. Buffmire moved that in addition to the original motion that an appropriation of \$1.6 million for Adult Education also be recommended to Executive Appropriations as a priority.

There was discussion about Rep. Buffmire's motion among committee members.

The motion failed with Sen. Stephenson, Sen. Hillyard, Sen. Wright, Rep. Aagard, Rep. Christensen, Rep. Donnelson, Rep. Dougall, and Rep. Ferrin voting in opposition, and Rep. Snow, Rep. Cox, and Rep. Dillree absent for the vote.

SUBSTITUTE MOTION: Sen. Evans moved that the \$1.6 million for Adult Education be offered as a priority to Executive Appropriations.

MOTION: Sen. Hale called the question.

The motion to call the question passed unanimously.

Sen. Evans motion failed with Sen. Stephenson, Sen. Hillyard, Sen. Wright, Rep. Aagard, Rep. Christensen, Rep. Donnelson, and Rep. Dougall voting in opposition, and Rep. Snow, Rep. Cox, and Rep. Dillree absent for the vote.

The original motion, made by Rep. Ferrin, passed with Rep. Buffmire voting in opposition, and Rep. Snow, Rep. Cox, and Rep. Dillree absent for the vote.

MOTION: Rep. Donnelson moved the following intent language:

"It is the intent of the Legislature that the USOE use \$1 million of remaining funds appropriated in S.B. 154 (2003 General Session) to contract with a private entity which meets the qualifications of the RFP approved by the Interim Education Committee and recommends that the contract be awarded to the Innovations in Education."

There was discussion among committee members about Rep. Donnelson's intent language.

The motion passed with Rep. Christensen voting in opposition, and Rep. Snow, Rep. Cox, Rep. Dillree and Rep. Morgan absent for the vote.

MOTION: Rep. Ferrin moved to use the remaining \$2.9 million in discretionary money be allocated to Enrollment Growth.

The motion passed unanimously with Rep. Snow, Rep. Cox, Rep. Dillree, and Rep. Morgan absent for the vote.

MOTION: Rep. Dougall moved Rep. Cox's request for a supplemental of \$9,000 for the New School District Study Cost.

The motion passed with Sen. Hale, Sen. Hillyard, Rep. Bourdeaux, Rep. Buffmire, Rep. Donnelson, and Rep. Snow voting in opposition and Rep. Cox, Rep. Dillree, and Rep. Morgan absent for the vote.

MOTION: Sen. Hale moved that we request that the State Office of Education explore a Needs Based Fee scale for Adult Education and present the proposal to the Education Interim Committee.

The motion passed unanimously with Rep. Snow, Rep. Cox, Rep. Dillree, and Rep. Morgan absent for the vote.

MOTION: Rep. Aagard moved to adjourn.

Co-Chair Stephenson adjourned the meeting at 6:15 p.m.

Minutes reported by Katrina Yarrington, Secretary.

Sen. Howard Stephenson, Committee Co-Chair

Rep. Gordon Snow, Committee Co-Chair